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10 **UNITED STATES DISTRICT COURT**

11 **DISTRICT OF NEVADA**

12 UNITED STATES OF AMERICA, )  
 ) 2:12-CR-0083-APG-(GWF)  
13 Plaintiff, )  
 ) **GOVERNMENT'S SENTENCING**  
14 v. ) **MEMORANDUM**  
 )  
15 JASON MACLASKEY, )  
 )  
16 Defendant. )

17 Plaintiff United States of America, by and through DANIEL G. BOGDEN, United  
18 States Attorney, Kimberly M. Frayn and Andrew W. Duncan, Assistant United States Attorneys, and  
19 Jonathan A. Ophardt, Trial Attorney for the United States Department of Justice, Organized Crime  
20 and Gang Section, files this Sentencing Memorandum.

21 **PROCEDURAL HISTORY**

22 On March 13, 2012, a federal grand jury indicted defendant Jason Maclaskey and six  
23 other members and associates of the Carder.su criminal organization, charging them with  
24 Conspiracy, in violation of Title 18, United States Code, Section 371, (Count One), and violations of  
25 the identity theft and access device fraud statutes (Counts Two through Sixteen). PSR ¶ 1-8. On  
26 April 26, 2012, defendant Maclaskey was released on a writ from Texas Department of Criminal

Justice to the US Marshals. He was transported to Nevada and detained pending trial in this matter.<sup>1</sup> PSR ¶ 11. On January 28, 2014, defendant Maclaskey pleaded guilty to a superseding information charging him with one count of Conspiracy, in violation of Title 18, United States Code, Section 371. PSR ¶ 10.

### **FACTS**

The Carder.su criminal enterprise is a sophisticated web of individuals, bound together by their criminal involvement in fraud and identity theft, who congregated at a central virtual location, the Carder.su website. PSR ¶ 13. The participants in the enterprise ranged from members who vended stolen data and counterfeit documents, to members who took part in the forums and purchased their illicit wares from other members, to moderators who maintained the peace between all members, and ensured the rules of the organization were followed. PSR ¶ 15-17. An Administrator, Roman Zolotarev indicted in 2:12-CR-004, acted as final arbiter, insurance provider (via escrow services), and protector of the marketplace from outside undesirables like law enforcement and “rippers.” PSR ¶ 19.

Homeland Security Investigations (HSI) Special Agent Michael Adams infiltrated the Carder.su criminal enterprise, and became a “reviewed vendor,” that is, a seller of counterfeit identification documents (“IDs”) who had passed the quality-control protocols established by the criminal enterprise. PSR ¶ 20-23. Members of the Carder.su criminal enterprise needed counterfeit IDs to facilitate their “carding,” that is, fraudulent purchasing with counterfeit credit cards. Counterfeit IDs were also needed to send money to other vendors in the Carder.su enterprise using legitimate means, such as bank transfers, and to open bank accounts for use in bank fraud schemes

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<sup>1</sup> On March 6, 2013, defendant Maclaskey was charged in the Southern District of Texas on a 23-count federal indictment alleging Conspiracy, Theft of Public (IRS) Money, Aggravated Identity Theft, Access Device Fraud, Fugitive in Possession of a Firearm, and Possession of a Stolen Firearm. These allegations stem from a scheme in which defendant Maclaskey and others, including but not limited to codefendants in this case Butt, and Dale, fraudulently filed tax returns using victims’ personal and financial identifiers to unlawfully obtain tax refund money in an amount which exceeds \$1.4 million dollars. PSR ¶ 71-72. The facts supporting the gun charges are in the PSR ¶ 67. Once the Court sentences defendant Maclaskey in this matter (2:12-CR-0083), Maclaskey will be returned to the Southern District of Texas for trial starting on July 1, 2014.

1 known as “cash out services.” On July 27, 2009, defendant Maclaskey became a member of the  
2 Carder.su Organization registering under the nics “Shinnerbock” and “That Guy.” PSR ¶ 26.  
3 Beginning on a date unknown but not earlier than November 12, 2007, and not later than June 25,  
4 2009, and continuing to on or about March 30, 2011, in Nevada, Texas, New York, Missouri, Georgia,  
5 and elsewhere, defendant Maclaskey and codefendant Carder.su members Butt and Steffey, along  
6 with codefendant Carder.su associates Dale, Carder, Morrell and Kephart, did conspire and agreed  
7 to, and did ultimately carry out the purchase of numerous counterfeit identification documents  
8 (drivers’ licenses), as well as victims’ personal and financial identifiers from other Carder.su  
9 members, which the defendant used to fraudulently obtain cash and high-end merchandise that he  
10 subsequently fenced. PSR ¶ 24-40. These acts, among others, which defendant Maclaskey  
11 knowingly and voluntarily committed in furtherance of the Carder.su organization’s criminal  
12 enterprise, constitute a pattern of conspiracy, committed in and affecting interstate and foreign  
13 commerce, and were done for the gain of the Carder.su members, its associates, the defendant’s own  
14 personal gain, the benefit of others, and in furtherance of the Carder.su criminal enterprise. Financial  
15 institutions sustained more than \$50.8 million dollars in actual loss as a result of the Carder.su  
16 criminal enterprise and defendant Maclaskey’s crimes.

17 In his plea agreement, (doc. no. 206, p. 10), defendant Maclaskey has expressly admitted  
18 that: 1) a loss amount of more than two hundred thousand dollars (\$200,000) but less than four  
19 hundred thousand dollars (\$400,000) is attributable to the defendant as a member of the conspiracy;  
20 2) the offense involved more than 10 but less than 50 victims; 3) a substantial part of the offense was  
21 conducted overseas and otherwise used sophisticated means; 4) the offense involved possession and  
22 use of device-making equipment, and the production of and trafficking in unauthorized and  
23 counterfeit access devices; and 5) the defendant was an organizer and leader of criminal activity that  
24 involved five or more participants or was otherwise extensive. The defendant also specifically  
25 admitted that, directly or indirectly as a result of his criminal violations, he owes the joint-and-  
26 several restitution amount of \$50,575,123.45. The defendant also agreed that property set forth in the

Information, and a criminal forfeiture money judgment of \$50,575,123.45 are facilitating property and proceeds of his crimes and are therefore subject to forfeiture.

### **SENTENCING GUIDELINE CALCULATION**

Probation correctly calculated the advisory guidelines as follows:

#### Offense Level Calculations.

1.	Conspiracy/ 18 U.S.C. § 371 Base Offense Level USSG § 2B1.1(a)(2):	6
2.	Enhancements:	
	Upward Adjustment: Total amount of loss of more than \$200,000, but less than \$400,000/ U.S.S.G § 2B1.1(b)(1)(E):	+12
	Offense involves more than 10 but less than 50 victims/U.S.S.G. § 2B1.1(b)(2)(B):	+2
	A substantial part of the offense was conducted overseas and otherwise used sophisticated means/ U.S.S.G. § 2B1.1(b)(10):	+2
	Offense involved possession and use of device- making equipment, and the production of and trafficking in unauthorized and counterfeit access devices/ U.S.S.G. § 2B1.1(b)(1)(11)(A)(B):	+2
	Role Enhancement for Carder.su Organization Membership and leadership role in this cell group/ U.S.S.G. § 3B1.1(a):	+4
	Adjusted Offense Level:	= 28
	Acceptance of Responsibility	-3
	Total Adjusted Offense Level:	= 25

PSR ¶ 56 -63. Defendant Maclaskey's criminal history calculation results in a Criminal History Category III. PSR ¶ 68. An offense level of 25 and a Criminal History Category III yield an advisory guideline range of 70 to 87. PSR ¶ 103. The maximum penalty for Conspiracy under 18 U.S.C. § 371, is not more than five (5) years in prison, a fine of not more than two hundred and fifty thousand dollars (\$250,000), or both a fine and imprisonment. Accordingly, Probation recommends a 5 year (60 month) term of imprisonment, which constitutes in essence a ten (10) month variance down from the low end of the applicable advisory guideline range. PSR ¶ 117. Such a recommendation is consistent with the plea agreement, which requires that the parties jointly recommend a sentence at the statutory maximum of five years. (Doc. No. 206 at p. 15). Moreover, the defendant has expressly agreed not to argue for any sentence below five years. *Id.*

### **SENTENCING ARGUMENT**

As discussed above in the factual recitation, the Carder.su criminal enterprise exhibited substantial complexity, and the interdependence of its members' criminal schemes, makes the existence of this criminal enterprise particularly serious. *See United States v. Feola*, 420 U.S. 671, 693 (1975) (noting the law of conspiracy protects society "from the dangers of concerted criminal activity."). Congress recognized the seriousness of concerted criminal activity by passing the RICO act, authorizing a twenty year sentence for participation in a RICO enterprise, and a separate twenty year sentence for conspiring to participate in a RICO enterprise. 18 U.S.C. 1962(c) & (d). In addition, the Sentencing Commission has recognized the seriousness of sophisticated fraudulent schemes in the advisory guideline calculations governed under U.S.S.G. Section 2B1.1.<sup>2</sup> Defendant Maclaskey was a long term member of this criminal organization, involved in virtually every aspect of its ongoing operations. However, the defendant negotiated the benefit of a

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<sup>2</sup> For example, on May 15, 2014, fellow Carder.su member David Camez's RICO guidelines were determined to be 360 to life in case number 2:12-CR-004, and he was sentenced to two concurrent twenty year terms for his RICO and RICO Conspiracy convictions at trial.



**Certificate of Service**

The undersigned counsel hereby certified that she served a copy of this document on defense counsel, via electronic service through the PACER system on May 20, 2014.

DATE: May 20, 2014

/s / Kimberly M. Frayn  
KIMBERLY M. FRAYN  
Assistant United States Attorney